

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEILANI JIMENEZ, individually, and as  
successor-in-interest for Decedent DENNIS  
JIMENEZ; J.J., a minor, by and through his  
guardian ad litem Leilani Jimenez; D.J., a minor,  
by and through her guardian ad litem Leilani  
Jimenez, and DENNIS JIMENEZ, Jr. an  
individual; DENISE GAINES, an individual; and  
ANITA JIMENEZ, an individual,

Plaintiff,

v.

COUNTY OF ALAMEDA, et al.,

Defendant.

No. C 13-04620 CRB

**ORDER RE: SECOND MOTION FOR  
PARTIAL SUMMARY JUDGMENT AND  
REQUEST FOR TIME TO COMPLETE  
ADDITIONAL DISCOVERY**

Defendant has again moved for partial summary judgment.<sup>1</sup> See Motion (dkt. 61). Plaintiff again requests additional discovery under Rule 56(d), and just as before, Plaintiff fails to submit an affidavit or declaration in support of its request as required by Rule 56(d). See Response (dkt. 65) at 10; Fed. R. Civ. P. 56(d) ("If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may: (1) defer considering the motion or deny it; (2) allow time to obtain affidavits or declarations or to take discovery; or (3) issue any appropriate order.").

<sup>1</sup> Plaintiff had noted in response to Defendants' last partial motion for summary judgment that discovery in this matter is not closed and that Plaintiff wished to depose additional witnesses. See Response (dkt. 38) at 9. The Court granted Plaintiff's Rule 56(d) request for discovery and denied Defendant's motion for summary judgment without prejudice. See Order (dkt. 54).

1 Plaintiff is ORDERED to submit such an affidavit no later than Friday, February 5,  
2 2016. In that affidavit, Plaintiff must clearly explain how it has "diligently [pursued]  
3 discovery before summary judgment." See Mackey v. Pioneer Nat. Bank, 867 F.2d 520, 524  
4 (9th Cir. 1989). Additionally, Plaintiff is ORDERED to explain why it has not yet conducted  
5 the discovery it argues is required here, given that the Court dismissed Defendants' last  
6 partial motion for summary judgment on October 5, 2015.

7 **IT IS SO ORDERED.**

8  
9 Dated: February 1, 2016



CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE